

Remarks

Applicants have carefully reviewed the Office Action mailed on June 1, 2006. Claims 1-4 and 32-51 were previously cancelled, and claims 5-31 have been withdrawn from consideration. Claims 52 and 72 have been amended with this response, and claims 53 and 73 have been cancelled.

Claims 52-55, 57-75 and 77-93 were rejected under 35 U.S.C. §102(e) as being anticipated by Mazzocchi et al., U.S. Patent No. 6,605,102 (hereinafter “Mazzocchi”). Applicants respectfully traverse this rejection. In order for a reference to anticipate a claim, each and every element of the claim must be disclosed in the reference. See M.P.E.P. §2131.

Mazzocchi discloses an intravascular trap and method of trapping particles in bodily fluids. Figures 11A and 11B, cited in the Office Action, illustrate a vascular trap suitable for temporarily filtering embolic particles from blood passing through a patient’s vascular system. Column 19, lines 55-57. The operation of the trap is also described in the specification of Mazzocchi.

In moving from its collapsed state (FIG. 11A) to its expanded state (FIG. 11B), the metal fabric turns in on itself, with a proximal portion 282 of the collapsed basket being received within the interior of a distal portion 284 of the collapsed basket. This produces a two-layered structure having a proximal lip 286 spaced radially outwardly of the guidewire, defining a proximally-facing cup-shaped cavity 288 of the basket.

Column 20, line 65 through column 21, line 5 (emphasis added). Thus, the trap that is described in Mazzocchi apparently has a two-layered structure when it is in an expanded state. In contrast, claims 52 and 72 both recite, in part, a filter having a filtering region that has a single layer of filter membrane when the filter is in an expanded shape. Because Figures 11A and 11B of Mazzocchi do not appear to disclose at least this

aspect of claims 52 and 72, this reference cannot anticipate these claims. Because they are dependent on claims 52 and 72 and because they recite additional patentably distinct elements, Applicants also assert that claims 54-55, 57-71, 74, 75 and 77-93 are allowable.

Claims 56 and 76 were rejected under 35 U.S.C. §103(a) as being unpatentable over Mazzocchi in view of Daniel et al., U.S. Patent No. 5,814,064 (hereinafter "Daniel"). In order for a combination of references to render a claim obvious, there must be some suggestion or motivation in the prior art to make the proposed combination. As stated in the M.P.E.P. §2143.01, part VI, the proposed combination cannot change the principle of operation of a reference. See M.P.E.P. §2143.01.

As such, regardless of whether Daniel discloses the elements that are missing from Mazzocchi, the principle of operation of the trap of Figures 11A and 11B, as described in column 20, line 65 through column 21, line 5 of Mazzocchi, would be changed if the trap were to have a single layer of filter membrane when the trap is in an expanded state. For at least this reason, the combination of Mazzocchi and Daniel should not be used to render claims 56 and 76 obvious, and Applicants assert that these claims are allowable over these references.

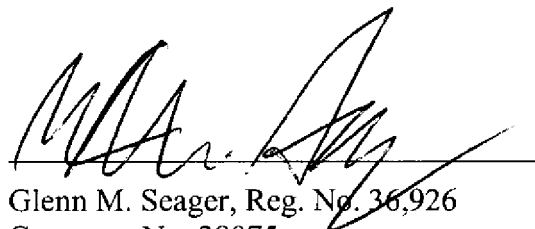
Reexamination and reconsideration are requested. It is respectfully submitted that all pending claims are now in condition for allowance. Issuance of a Notice of Allowance in due course is also respectfully requested. If a telephone conference might be of assistance, please contact the undersigned attorney at (612) 677-9050.

Respectfully submitted,

THOMAS BROOME ET AL.

By their Attorney,

Date: Dec. 1, 2006

A handwritten signature in black ink, appearing to read "Glenn M. Seager", is written over a horizontal line.

Glenn M. Seager, Reg. No. 36,926

Customer No. 28075

CROMPTON, SEAGER & TUFTE, LLC

1221 Nicollet Avenue, Suite 800

Minneapolis, MN 55403-2402

Telephone: (612) 677-9050

Facsimile: (612) 359-9349